

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

ANTHONY J. FAWCETT,

Plaintiff,

V.

MICHAEL J. ASTRUE,
Commissioner of Social Security,

Defendant.

CASE NOS. 4:07-CV-1412
4:04-CV-2448

OPINION & ORDER

[Resolving 4:07-CV-1412 Doc. Nos. [29](#), [30](#)]

[Resolving 4:04-CV-2448 Doc. Nos. [29](#), [30](#)]

JAMES S. GWIN, UNITED STATES DISTRICT JUDGE:

Pending before the Court are Plaintiff's motions for attorneys fees under Section 406(b) of the Social Security Act, [42 U.S.C. § 406\(b\)](#). Defendant Commissioner of Social Security does not object. [\[Doc. 32.\]](#)

In 2004 Plaintiff challenged her denial of social security benefits in federal court and, after Judge Kathleen O'Malley remanded the case twice, an Administrative Law Judge ultimately awarded Plaintiff about \$90,000 in past-due disability benefits. [[Doc. 29 at 1](#); [Doc. 29-3 at 2](#).] Accordingly, after a seven-year litigation odyssey, Plaintiff seeks an award of attorneys fees in the amount of \$17,591.08. [[Doc. 29-1](#).]

Section 406(b) of the Social Security Act states in part:

Whenever a court renders a judgment favorable to a claimant under this subchapter who was represented before the court by an attorney, the court may determine and

Case Nos. 4:07-CV-1412; 4:04-CV-2448
Gwin, J.

allow as part of its judgment a reasonable fee for such representation, not in excess of 25 percent of the total of the past-due benefits to which the claimant is entitled by reason of such judgment, and the Commissioner of Social Security may, notwithstanding the provisions of section 405(i) of this title, but subject to subsection (d) of this section, certify the amount of such fee for payment to such attorney out of, and not in addition to, the amount of such past-due benefits.

42 U.S.C. 406(b)(1)(A).

As the total fee requested is not in excess of 25% of Plaintiff's benefits award and is otherwise reasonable, the Court **GRANTS** Plaintiff's Motion for Attorney Fees and **AWARDS** attorney fees of **\$8,400.08** in case 04-CV-2448 and of **\$9,191.00** in case 07-CV-1412, for a total award of **\$17,591.08**.

IT IS SO ORDERED.

Dated: March 25, 2011

s/ James S. Gwin
JAMES S. GWIN
UNITED STATES DISTRICT JUDGE